

REMARKS

This amendment is offered in response to the Office Action of January 21, 2010.

Submission of Information Disclosure Statement of August 10, 2009

First, the Office Action noted that the page 2 of the information disclosure statement submitted on August 10, 2009 was not considered since dates were missing from the list. We respectfully bring to the attention of the Examiner that all three listings on Page 2 of the information disclosure contain dates. We hereby resubmit the disclosure documents for reconsideration and consideration for having been timely submitted on August 10, 2009 which is within the 3 month date of the June 30, 2009 Supplemental European Search Report issued in counterpart European Application No. EP05721340.

The Office Action rejected claims 1-9 and 26 under 35 U.S.C. §112, second paragraph as being indefinite. Claims 1-9, 21, 23, and 26 are rejected under 35 U.S.C. §101 for the claims being directed to a non-statutory subject matter. Further, claims 1-7, 10-16, 21, 23, 24, and 26 are rejected as obvious under 35 U.S.C. §103(a) over Levenkova et al. (Bioinformatics, 2004, 20(3), 430-432, hereinafter "Levenkova") in view of Sakharkar et al. (Nucleic Acids Research, 2000, 28(1), 191-192, hereinafter "Saharkar") Claims 1-8, 10-16, 21, 23, 24, and 26 are rejected under 35 U.S.C. §103(a) as obvious over Levenkova in view of Saharkar and further in view of Rouillard et al. (Bioinformatics, 2002, 18(3), 486-487, hereinafter "Rouillard")

In response to the 35 U.S.C. §112, second paragraph rejection of claims 1-9 and 26 and 35 U.S.C. §101 rejection of claims 1-9, 21, 23, and 26, applicants have amended the claims to remove the language as being pointed out as indefinite from the pending claims and also introduced an apparatus limitation to direct the claims to a statutory subject matter.

More specifically, claim 1 has been divided into claims 1 and 5 and the language brought to our attention as indefinite in claims 1, 3 and 4 has been removed. Further, an "apparatus" limitation has been

introduced to claims 1 and 5, which would more clearly direct the claims to a statutory subject matter. Claims 6-9, 14-16, 21, 23, and 26 have been cancelled. Applicants respectfully request to have the §112, second paragraph §101 rejections withdrawn.

Rejection of claims under 35 U.S.C. §103(a)

In response to the rejection of claims 1-7, 10-16, 21, 23, 24, and 26 over Levenkova in view of Sakharkar, and claims 1-8, 10-16, 21, 23, 24, and 26 further in view of Rouillard, applicants respectfully state that the combination of references fails to make the pending claims obvious.

First, Levenkova fails to disclose set of base sequences that include sets of exon and border sequences. Further, Sakharkar also fails to disclose the base sequences straddling exon borders. The information provided in Sakharkar for exon/intron structure does not make the base sequences straddling exon borders obvious. The third reference, Rouillard, also fails to disclose the missing elements.

Therefore, each of the reference alone or in combination fails to make the claims obvious.

The pending claims, including claims 1 and 10, have been amended to clarify the subject matter of the claims. Applicants believe that the amended claims more clearly claim the subject matter and are distinguished from the references. A withdrawal of the rejection is respectfully requested.

A request for a two month extension of time and fee are enclosed. Applicants do not believe that there are any other fees due. However if any fees are due, please charge such sums to our Deposit Account 50-1145.

/Robert L. Norton/ Reg. No. 62080

Robert L. Norton
Registration No. 62,082

Attorney for Applicants

Day Pitney LLP
7 Times Square
New York, New York 10036-7311
212.297.5800